

Service Date: August 6, 1998

DEPARTMENT OF PUBLIC SERVICE REGULATION  
BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MONTANA

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IN THE MATTER of the Investigation	)	UTILITY DIVISION
into U S WEST Communications, Inc.'s	)	
Compliance with Section 271(c) of the	)	DOCKET NO. D97.5.87
Telecommunications Act of 1996.	)	ORDER NO. 5982f

ORDER APPOINTING SPECIAL MASTER  
FOR DISCOVERY ISSUE

On June 29, 1998, the Public Service Commission (PSC) issued an order (Order No. 5982e) in the above-entitled matter, granting a motion by AT&T Communications of the Mountain States, Inc. (AT&T), to compel certain U S West Communications, Inc. (USW), discovery responses. In regard to that order USW has now filed a consolidated motion for reconsideration and protective order.

In its consolidated motion USW seeks an exemption from discovery for certain documents and related information that USW argues should be protected by the attorney-client privilege, the attorney work-product doctrine, and a rule precluding discovery on non-testifying experts. The documents and related information for which protection is requested pertain to certain USW Operational Support Systems (OSS) studies.

The PSC determines that review of the documents and related information for which USW requests protection is necessary prior to ruling on USW's consolidated motion. Although making no statement regarding whether it might be able to conduct such review itself, under the circumstances presented the PSC determines that review should be conducted by a PSC-appointed special master. For purposes of review of the material, the PSC hereby appoints Martin Jacobson, Staff Attorney, Public Service Commission, P.O. Box 202601, 1701 Prospect Avenue, Helena, Montana 59620-2601, telephone number (406) 444-6178, as special master.

The PSC further orders that USW shall deliver to the special master one complete and exact copy of each of the documents and related information for which protection is sought, and

all related logs, indices, and the like which may identify the specific portions of the documents and information to which USW believes protection should be applied. To the extent that it may be necessary, a subpoena to that effect will accompany this order.

USW shall hand deliver the material to the special master, personally. The special master's review shall be in the nature of an in camera review, the material to be treated as confidential by the special master. The special master shall return the material to USW immediately following review. Disclosure of the information to the special master is not a waiver of any privilege, doctrine, or rule asserted by USW. Following review of the material the special master shall provide a written decision to the PSC on the merits of USW's consolidated motion and all relevant facts (not including or disclosing the contents of the materials) and legal arguments involved, as those may be affected by actual review the material.

Done and dated this 5th day of August, 1998, by a vote of 3-0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

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DAVE FISHER, Chair

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BOB ANDERSON, Commissioner

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DANNY OBERG, Commissioner

ATTEST:

Kathlene M. Anderson  
Commission Secretary

(SEAL)